IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

OP.No. 1039 of 2001(W)

PETITIONER:

P.C. GRACY, PEON,
PLANTATION CORPORATION OF KERALA LTD.,
KOTTAYAM-4.

BY ADV. SRI.C.P.SUDHAKARA PRASAD (SR.)
SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.S.D.ASOKAN

RESPONDENTS:
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1. **PLANTATION CORPORATION OF KERALA LTD.,**
KOTTAYAM-4, REP. BY ITS MANAGING DIRECTOR.

2. **THE GENERAL MANAGER (P&A),**
PLANTATION CORPORATION OF KERALA LTD.,
KOTTAYAM-4.

3. **STATE OF KERALA, REP. BY THE SECRETARY TO GOVT.,**
AGRICULTURE DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

4. **K. VINOD, KALATHINGAL HOUSE,**
MANKADA, PALLIPURAM P.O., MALAPPURAM- 679 342.

5. **E.P. ABDUL KADER, AMINAS, 8/L, OLAKKAD,**
MAYYIL P.O., KANNUR- 670 602.

6. **V.DINESH LAL, TC 31/461, DEEPA SREE,**
MOONAM MANACKAL, PETTAH, THIRUVANANTHAPURAM.

**7. G. BAIJU, BAIJU BHAVAN, NILAVANA,
MADAVOOR, PALLICKAL P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.JOSEPH MARKOSE R1 AND R2

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 1686/2001 IN OP NO. 1039/2001 W.

DISMISSED

03/07/2007. SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE BOARD RESOLUTION DT. 14/6/88 OF THE R1.

EXT.P1A. COPY OF THE LETTER DT. 25/11/88 BY THE GENERAL MANAGER, OF THE R1.

EXT.P2. COPY OF THE CANDIATES UNDER THE DYING INHARNES SCHEME.

EXT.P3. COPY OF THE GO MS NO. 128/89/AD DT. 29/5/89.

EXT.P4. COPY OF THE ORDER DT. 6/3/93 BY THE GOVT. TO THE CHAIRMAN AND MANAGING DIRECTOR OF THE R1.

EXT.P5. COPY OF THE AWARD DT. 30TH OCT, 1995 IN ID NO. 52/92 OF THE INDUSTRIAL TRIBUNAL, ALAPPUZHA.

EXT.P6. COPY OF THE REPRESENTATION DT. 22/2/98 BY THE PETITIONERS AND OTHERS BEFORE THE GOVT.

EXT.P7. COPY OF THE JUDGMENT IN OP NO. 1478/00 OF THIS COURT,.

EXT.P8. COPY OF THE ORDER GO MS NO. 227/2000/AGRL/DT. 29/6/00 BY THE GOVT.

EXT.P9. COPY OF THE ORDER NO. PD/PA/8648 DT. 28/12/00 BY THE R2.

EXT.P10. COPY OF THE ORDER NO. PD/PA 8650/ DT. 28/12/00 BY THE R2.

EXT.P11. COPY OF THE ORDER NO. PD/PA 8649/ DT. 28/12/00 BY THE R2.

EXT.P12. COPY OF THE ORDER NO. PD/PA/8647 DT. 28/12/00 BY THE R2.

EXT.P13. COPY OF THE STATEMENT SHOWING THE VACANCY POSITION.

EXT.P14. COPY OF THE AWARD DT. 31/12/2002 IN ID NO. 28/99 OF THE INDUSTRIAL TRIBUNAL, ALAPPUZHA.

True copy

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Thottathil B. Radhakrishnan, J.

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O.P.No.1039 of 2001

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Dated this the 3rd day of July, 2007.

JUDGMENT

Petitioner's father Sri.Mathai Chacko died while working as a factory worker in the first respondent Company on 20-5-1985. Petitioner was appointed as a Peon on 13-3-1989 on the basis of her application dated 8-10-1985 under the dying in harness scheme. She then had SSLC as a qualification. According to her, with that qualification, she was entitled to be appointed as Field Assistant, which is an equivalent post to that of Junior Assistant for which post type-writing lower was necessary. By 1988, petitioner passed type-writing lower also. Accordingly, she contends that, though she entered service as a Peon, she was entitled to be appointed as Junior Assistant or Field Assistant. On the basis of the aforesaid contentions, she seeks to quash Exts.P9

to P12 by which the private respondents were advised by the Public Service Commission for appointment. She seeks to displace at least one among them and become a Field Assistant or a Junior Assistant. The aforesaid facts get immediately covered by the ratio of the decision of the Apex Court in **I.G.Karmik v. Prahalad Mani Tripathi (2007 (6) Scale 370)** wherein after noticing that when the constitutional scheme does not provide for appointment being given on dissent and when an exception carved out to that to provide compassionate appointment to the most needy, the idea is not to provide for endless compassion and that a person after obtaining an appointment in a lower post could not be permitted to turn round and contend that he was entitled for a higher post. In **State of Rajasthan v. Umrao Singh [(1994) 6 SCC 560]**, the Apex Court had laid down that once the right is consummated, any further or second

consideration for higher post on the ground of compassion would not arise. That decision has been quoted and followed in **I.G.Karmik's** case (supra).

Having regard to the aforesaid proposition of law, I find no legal right for the petitioner to insist for the reliefs sought for in this writ petition. Writ petition fails. The same is dismissed. No costs.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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O.P.No.1039 of 2001

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JUDGMENT

Dated:3-7-2007